

JOHN A. JOHNSON,)	No. C 12-01859 EJD (PR)
)	
Petitioner,)	ORDER TO SHOW CAUSE
)	
vs.)	
)	
)	
RICK M. HILL, Warden,)	
)	
Respondent.)	

Order to Show Cause
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Petitioner also filed a petition for a writ of habeas corpus in this Court, which was denied in July 2005. The Ninth Circuit Court of Appeals denied his petition for review the same year. (Id. at 5.)

Petitioner filed the instant federal habeas petition on April 13, 2012.

DISCUSSION

A. Standard of Review

This court may entertain a petition for a writ of habeas corpus “in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a).

It shall “award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” Id. § 2243.

B. Legal Claims

Petitioner claims that California’s Three Strikes Law is being unconstitutionally applied to his prior conviction on various grounds. Liberally construed, his claim is cognizable under § 2254 and merits an answer from Respondent.

CONCLUSION

For the foregoing reasons and for good cause shown,

1. The Clerk shall serve by certified mail a copy of this order and the petition and all attachments thereto on Respondent and Respondent’s attorney, the Attorney General of the State of California. The Clerk also shall serve a copy of this order on Petitioner.

2. Respondent shall file with the court and serve on petitioner, within **sixty (60) days** of the issuance of this order, an answer conforming in all respects to

1 Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of
2 habeas corpus should not be issued. Respondent shall file with the answer and serve
3 on Petitioner a copy of all portions of the state trial record that have been transcribed
4 previously and that are relevant to a determination of the issues presented by the
5 petition.

6 If Petitioner wishes to respond to the answer, he shall do so by filing a
7 traverse with the Court and serving it on Respondent within **thirty (30) days** of his
8 receipt of the answer.

9 3. Respondent may file a motion to dismiss on procedural grounds in lieu
10 of an answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules
11 Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall
12 file with the Court and serve on Respondent an opposition or statement of non-
13 opposition within **thirty (30) days** of receipt of the motion, and Respondent shall
14 file with the court and serve on Petitioner a reply within **fifteen (15) days** of receipt
15 of any opposition.

16 4. Petitioner is reminded that all communications with the court must be
17 served on Respondent by mailing a true copy of the document to Respondent's
18 counsel. Petitioner must also keep the Court and all parties informed of any change
19 of address.

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21 DATED: 7/20/2012


22 EDWARD J. DAVILA
23 United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JOHN A. JOHNSON,

Petitioner,

v.

RICK M. HILL, Warden,

Respondent.

Case Number: CV12-01859 EJD

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 7/20/2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

John A. Johnson E-89817
Folsom State Prison
P. O. Box 715071
Folsom, CA 95763

Dated: 7/20/2012

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk